REMARKS/ARGUMENTS

Claim Amendments

The Applicant has amended claims 1, 11 and 12 and added new claim 26. Applicant respectfully submits no new matter has been added. Accordingly, claims 1-12 and 23-26 are pending in the application. Favorable reconsideration of the application is respectfully requested in view of the foregoing amendments and the following remarks.

Allowable Subject Matter

The Applicant notes with appreciation the conditional allowance of claims 23-25.

Reply to Response to Arguments

The Applicant appreciates the response by the Examiner in paragraph 1. The applicant submits that the sentence should have read "Therefore, the Applicant agrees with the Examiner that the delay budget limitation, as defined by the Applicant, is not found in the Radha reference."

Also, the Applicant appreciates the Examiner's position that there is no limitation on the number of references that can be used in a 103 rejection. However, the Applicant submits that when a patent is determined as obvious by a number of references, it becomes uncertain as to whether the limitations of the claim is used to determine the prior art or the prior art actually teaches or suggests the additional prior art that provides support for an obviousness rejection.

Claim Rejections – 35 U.S.C. § 101

Claims 1, 3-10 and 23 are rejected under 35 U.S.C. 101 because the claims invention is directed to non-statutory subject matter. The Applicant has amended the independent claims so that they are drawn to patent-eligible subject matter. The dependent claims 3-10 and 23 are now also drawn to patent-eligible subject matter and the Applicant respectfully requests the allowance of these claims.

Claim Rejections – 35 U.S.C. § 103 (a)

Claims 1-8 and 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Radha et al (US Patent No. 6,700,893 B1) in view of Zhu, et al. (US 6,085,252) and Balachandran et al (US 7,068,619 B2). The Applicant respectfully traverses the rejection of these claims.

The Examiner indicates that Radha discloses "a presentation time is defined for a first data packet of said plurality," is disclosed in col. 1, lines 50-52. The Applicant has reviewed the Examiner's cite and respectfully disagrees with the interpretation. The cited portion refers to a lost data packet that must be recovered prior to frame decoding. The presentation time is defined in a more detailed fashion on page 5, lines 10-15, i.e., "A presentation time is defined for a first data packet of said plurality." ... The presentation time corresponds to the latest time when the first data packet must arrive at the receiver to be processed and, in case of the final receiver in a transmission, presented by the application." The Applicant respectfully submits that Radha is different from that of the Applicant's definition of presentation time.

Column 3, lines 22-26 of the Radha reference is cited as disclosing whether data packets are correctly received and at least one data packet is selected for retransmission. The cited portion of Radha discloses a second controller detecting missing data packets and in response to that detection, the controller transmits a retransmission request for the missing data packets. The Applicant' respectfully submits that the cited portion does not disclose whether the data packets are correctly received. As disclosed in the Detailed Description, "[A]t least one data packet is selected for retransmission according to the result of the first check, i.e. the packet is selected if it is erroneous or missing." The cited portion of Radha refers to missing packets only.

The limitation beginning "determining a delay budget..." is rejected as being disclosed in Radha (col. 2, ln 58-60). First, the definition of Applicant's "presentation time" is different from that of Radha (see above). So, the delay budget determined by Radha's definition of presentation time is necessarily different. Further, the limitation has been amended to further clarify the limitation, support being found on page 5, lines 29-31 (including other locations in the Detailed Description).

The Zhu reference is cited as disclosing the Applicant's limitation beginning; "selectively retransmitting the first data packet..." for the purpose of conserving bandwidth. The Applicant has amended the limitation to clarify the Applicant's intention. Support for the amendment is found on page 16, line 4-9. The Applicant respectfully submits that Zhu does not disclose retransmitting the selected data packet.

Balanchandran (col. 2, lines 35-46) is cited as suggesting canceling a retransmission request if the delay budget is less than the delay requirement. The Applicant respectfully submits that Balachandran is referring to aborting the recovery of a block of data, not a packet. And, a playout time is determined for the block of data as a function of block size, play out rate and allowed delay for each transmission. The Applicant respectfully submits that play out time is not the same a comparing delay budget to the delay requirement of Claim 1.

The Applicant respectfully submits that the above limitations are not disclosed in the Radha, Zhu and Balachandran references and a prima facie case of obviousness, as provided in MPEP § 2143 has not been established. The Applicant respectfully requests the allowance of amended claim 1 and analogous claims 11 and 12.

Claims 2-10 depend from amended claim 1 and recite further limitations in combination with the novel elements of claim 1. Therefore, the allowance of claims 2-10 is respectfully requested.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Radha, Zhu and Balachandran in further view of Hackenberg et al US Pat No. 6,792,470B2. The Hackenberg reference fails to supply the limitations described above that are missing from the Balanchandran, Radha and Zhu references. So, the Balanchandran, Radha, Zhu and Hackenberg references fail to suggest, teach or disclose, individually or in combination, all of the limitations in Claim 1. This being the case, the Applicant respectfully requests the allowance of claim 9.

pending in the Application to be in a condition for allowance. The Applicant, therefore, respectfully requests that the Examiner withdraw all rejections and issue a Notice of Allowance for all pending claims.

The Applicant requests a telephonic interview if the Examiner has any questions or requires any additional information that would further or expedite the prosecution of the Application.

Respectfully submitted,

By Sidney L. Weatherford
Registration No. 45,602

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Ericsson Inc.
6300 Legacy Drive, M/S EVR 1-C-11
Plano, Texas 75024

(972) 583-8656
sidney.weatherford@ericsson.com